

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NATALIE REESER,

Plaintiff,

v

Case No. 2:14-cv-11916-GCS-MJH
Hon. George Caram Steeh

HENRY FORD HOSPITAL,

Defendant.

DEPOSITION OF JILL HOOD

Taken by the Plaintiff on the 5th day of May, 2015,
at the office of Keith D. Flynn, 600 W. Lafayette Blvd.,
Detroit, Michigan at 10:00 a.m.

APPEARANCES:

For the Plaintiff: MR. KEITH D. FLYNN (P74192)
Miller Cohen, P.L.C.
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For the Defendant: MR. TERRANCE J. MIGLIO (P30541)
MS. BARBARA E. BUCHANAN (P55084)
Varnum LLP
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248.567.7828

Also Present: NATALIE REESER, via telephone

Reported by: TAMARA A. O'CONNOR
CSMR 2656, CER 2656

1 A It is unpaid.

2 Q If a break is unpaid, does that mean that the
3 individual has to remain at the facility?

4 A It depends on the facility.

5 Q So if a break is unpaid, you may still require an
6 employee to remain at the facility?

7 A If the break is unpaid--let me think about that a
8 second.

9 Q Take your time.

10 A So if it is unpaid and they are mandated to remain
11 at the facility, then we would need to pay them for
12 their time.

13 Q What if an employee is told that they are not to be
14 paid for lunch? Would they still be required to
15 remain at the facility?

16 A It would depend on the circumstances as to why they
17 were told that they were not getting paid for lunch.

18 Q What circumstances are you thinking of?

19 A I guess that would be my question to you. I guess I
20 didn't understand why if they are being told to stay
21 there, why they wouldn't be paid.

22 Q Well, let's say that they are just not paid for
23 those lunch periods, but they are still required to
24 remain at the facility.

25 A That should not be occurring.

1 A Correct.

2 Q So have you ever countermanded a decision to
3 discipline or discharge?

4 A I don't understand the question.

5 Q So a supervisor comes to you and says, "I want to
6 discipline or discharge this employee." Have you
7 ever said, "No, you may not"?

8 A No.

9 Q I've seen documents from Henry Ford that refer to
10 Group 1 and Group 2 misconduct. Could you explain
11 the difference?

12 A Yes. It's based on levels of severity. A Group 1
13 are things such as attendance. Group 2 are things
14 such as insubordination, walking off the job, things
15 that are more serious in nature.

16 Q And what constitutes walking off the job?

17 A Leaving your assigned work area without
18 authorization.

19 Q So when there is no notice provided to the employer
20 and someone walks away, that would be walking off
21 the job. Correct?

22 A Yes.

23 Q As opposed to attendance. If there is an attendance
24 violation, that is when someone notifies management
25 but then doesn't show up. Correct?

1 A I cannot think of specific names right off the top
2 of my head, no.

3 Q So you can't give me a specific example?

4 A I cannot.

5 Q And can you recall any of the specific circumstances
6 related to any of those individuals?

7 A Not at this time, no.

8 Q What is the regular progressive discipline policy
9 for Group 2 violations?

10 A I'm sorry. I don't understand what you mean.

11 Q Okay. Well, do you know what progressive discipline
12 is?

13 A I do.

14 Q What is the progressive discipline policy for Group
15 2 violations? What order of the disciplines,
16 starting from less severe to most severe?

17 A The discipline track is written warning--I'm sorry,
18 documented counseling, written warning, written
19 warning with suspension and then termination.

20 So the policy for--the procedure for a
21 Group 2 is that depending on the situation you can
22 skip steps. You don't have to go one to the next.

23 Q And you have testified you can't think of the
24 circumstances as of today. Correct?

25 A The circumstances for what? I'm sorry.

1 A One.

2 Q So the employer could be without any notice that an
3 employee is not going to report to their shift, and
4 yet that employee would still only receive one
5 occurrence?

6 A It's one occurrence and then it's one incident, but
7 it in and of itself issue is warranting a written
8 warning with suspension.

9 Q How many occurrences before you're terminated?

10 A It depends where you are in the corrective action
11 path.

12 Q Say you're at the beginning?

13 A You're at the beginning?

14 Q You haven't even received a verbal or written
15 warning yet.

16 A Okay. So three occurrences in 30 days, you are
17 going to get your first corrective action. If then
18 you have three in 30 or four in 90 or seven at 160,
19 you are going to get your next corrective action.

20 Q So it just keeps bumping up, based off of where you
21 are on the--

22 A Correct.

23 Q Scale. Got you. Are lunches mandatory at Henry
24 Ford in the lab outreach?

25 A Mandatory? No.

1 so let me parse that out. You mentioned that Henry
2 Ford has a policy where you encourage employees to
3 take lunch. Correct?

4 A There is not a policy that encourages it. It is our
5 practice.

6 Q Oh, I'm sorry. Practice.

7 A Yes.

8 Q You have a practice that you encourage employees to
9 take a lunch.

10 A Correct.

11 Q What is the rationale for that practice?

12 A Wellness.

13 Q And what do you mean by "wellness"?

14 A Given time to step away for a few minutes to be able
15 to--whether it's to get some sustenance, to get
16 something to drink, just to be able to take some
17 time to decompress.

18 Q Any other reasons for that practice?

19 A For the patients. We--to ensure that the employees
20 aren't running themselves down and that they have
21 had some time away and can come back refreshed.

22 Q Any other reasons for the practice?

23 A Not that I can think of.

24 Q Why is the policy that employees will receive an
25 unpaid lunch, as opposed to a paid lunch?

1 (At 12:28 p.m., Plaintiff's

2 Deposition Exhibit 2 marked)

3 Q (By Mr. Flynn) This will be Exhibit 2. Let me know
4 when you are done reviewing it.

5 A (Witness complied).

6 Q Have you ever received an E-mail like this before
7 from Ms. Bork regarding Ms. Reeser, or at least
8 prior to this E-mail?

9 A Regarding Ms. Reeser? No, I have not.

10 Q And you recognize this document. Right?

11 A I do.

12 Q You remember receiving it from Ms. Bork?

13 A I do.

14 Q It's an E-mail. Right?

15 A It is.

16 Q And the date on the E-mail, January 16th. Correct?

17 A Correct.

18 Q The first line, it's addressed to you, and it's from
19 Ms. Bork, and it says:

20 "Do you happen to know who is meeting
21 with Natalie at 12:30 tomorrow?"

22 Do you see that?

23 A I do see that.

24 Q Do you recall ever responding to her?

25 A I remember purposefully not responding to her about

1 that.

2 Q Okay. Why did she even care?

3 A That's why I did not respond, because it's not
4 her--she doesn't have a business need to know that.
5 Employees have a right to come to H.R. and keep
6 their information confidential.

7 So who she was meeting with was irrelevant
8 to Fiona.

9 Q Why would she--why did you think at the time she
10 cared?

11 A Fiona is very thorough. She is very black and
12 white, and she does not like having things that are
13 unanswered. So when she--when Natalie had told her
14 that she was coming to H.R., that was just a
15 question that she had.

16 So but I do specifically remember not
17 answering that. That was just--

18 Q And did you ever ask her why she was asking?

19 A I did not.

20 Q And then she goes on to say:

21 "Some notes from our call the other
22 day."

23 Do you recall that phone conversation?

24 A Yes. This was in regards to when Natalie was
25 supposed to be--I believe. I would have to

1 prioritize first, because obviously Fiona had no
2 idea that that is one of the issues that she was
3 going to be raising with me.

4 So if there was validity to that, I needed
5 to find that out.

6 Q Okay, and so what were the issues with Fiona that
7 you just mentioned?

8 A They are all laid out in here, about the performance
9 review, about the meal breaks, not being paid meal
10 breaks, about being told that she would be--

11 I don't think she said it in here, but
12 being terminated if she brought it to H.R.'s
13 attention, and also about being asked to perjure
14 herself in an Unemployment hearing for Judy Hale
15 (phonetic).

16 Q So just the issues that are raised in here?

17 A Correct.

18 Q What did John say about the lunch issue?

19 A It was--he said, "Thank you for the status update.
20 Keep me posted and let me know what we need to do."

21 Q Okay.

22 A Because I touched base with him regularly.

23 Q And did you indicate to him that she wasn't being
24 given coverage for lunch periods?

25 A Yes.

1 A The issue is that Natalie had brought some very
2 sensitive things to my attention regarding the
3 integrity of Mrs. Bork, things that before I would
4 say I'm looking into something such as this I wanted
5 to get to the bottom of first.

6 I had explained to Natalie that I was
7 going to be waiting until I was able to do some
8 investigation before I shared everything with Ms.
9 Bork all at once.

10 So I was the one that informed her--
11 actually my suggestion to her was that, "Go ahead
12 and submit your time as you normally do. I will
13 make sure that you are paid for this compensable
14 time, and then moving forward, once I have been able
15 to speak with Ms. Bork, you put 'No lunch' on your
16 time card."

17 Natalie's concern was that she is bringing
18 this information to me and it would be retaliatory.
19 Well, when you raise a question of integrity,
20 whether it is about perjury or whether it is about
21 saying, "Go to H.R. and you will be terminated," I
22 want to make sure that I look into that before I
23 bring any of the other concerns forward.

24 Q And did you tell--you told Ms. Reeser all of this
25 during the January 20th meeting?

1 the phone with Ms. Bork. You just told her that.

2 What did Fiona say?

3 A That, like I said, was the conversation when she
4 confirmed with me that she had not been paying the
5 lunches, and I let her know that we were needing to
6 do all of the research on it to get her paid.

7 Q And what did she say?

8 A "Okay."

9 Q Anything else?

10 A She didn't understand at first why, when she had so
11 much time at that site of down time, why it could
12 not be considered lunch time, until I explained to
13 her that according to the Fair Labor Standards Act
14 you need 30 minutes of uninterrupted time, where you
15 can have that time to yourself.

16 Q And what did she say at the end of that explanation?

17 A That she had often more than a half an hour worth of
18 time, and that is when I had asked her, "but what if
19 the phone rings? What if somebody walks in? Is the
20 expectation that Natalie or whoever is manning the
21 site that day answer the call and attend to that
22 patient, or could she say, 'No. I'm sorry. I'm on
23 my break right now'?"

24 When Fiona had confirmed with me that, no,
25 she needs to help the client, or she needs to answer

1 the phone, that is when I let her know that it's
2 compensable time.

3 Q And what was Fiona's tone during this conversation,
4 if you could recall?

5 A She was fine with it. Fiona is very concerned about
6 doing the right thing and doing it consistently.

7 Q So if she was required to take a lunch, why was she
8 not provided a lunch on the 25th of February?

9 A If she was required to take--it's not about not
10 taking a lunch. It's about leaving a site, locking
11 the door and not having anybody there, about
12 abandoning your job.

13 Q But that's not my question. My question isn't what
14 you think it's about. My question is, if she was
15 required to take a lunch, why was she not provided a
16 lunch on February 25th?

17 A Because they were still doing the exact same
18 schedule that they were doing before, like I said.

19 Q But here she is saying--

20 A May I--

21 Q This is her saying that it is mandatory for her to
22 take a lunch--

23 MR. MIGLIO: Stop. Stop. Let her answer
24 the--we're going to take a break. Okay? We're not
25 coming back until--

1 Q Okay. Well--

2 A She did not try to call. She did not try to contact
3 anybody through the appropriate channels. That's
4 why she was let go.

5 Q So she didn't contact Fiona?

6 A E-mail is not the way to get approval for something
7 that you need urgently.

8 Q Okay.

9 A A two-minute and ten-second response time is not
10 realistic in anybody's view of--

11 Q Let's go through the events that you discovered from
12 February 25th. On February 25th, what is the first
13 you heard about this situation developing with
14 Natalie?

15 A I received an E-mail from Fiona. Fiona had
16 forwarded me Natalie's E-mail, saying that she
17 needed a break and that she was leaving, and that
18 she was--

19 I don't recall the E-mail, if it said that
20 she was locking the facility or not. Fiona had
21 forwarded that E-mail to me, asking if that was
22 something that she could do.

23 Q And did you respond to that E-mail?

24 A I called her.

25 Q And what was discussed via the telephone call?

1 A I asked her to fill me in on what exactly happened,
2 what was the timeframe, if there was anything that
3 Martha--if Martha was at the site, if there is
4 anything that Martha knew.

5 I asked if she truly did leave like she
6 said that she was going to. Fiona asked me if that
7 was something that was acceptable, can she just do
8 that.

9 When I found out that there was no waiting
10 for approval, she did not follow the proper protocol
11 to be able to get approval, then we had discussed
12 suspending her pending an investigation.

13 Q Let's take each one of those. You had a couple--
14 several questions for Fiona. Your first question
15 that you asked her was what?

16 A My first question was did she really indeed leave
17 the facility and leave it unattended.

18 Q And what did Fiona say?

19 A She said yes, she did.

20 Q When did you make this phone call to Fiona?

21 A After I got Fiona's E-mail.

22 Q Was it immediately after she had sent you the
23 E-mail?

24 A It was maybe within three, four minutes.

25 Q So you talked to Fiona, and you asked that question.

1 She said, "Yeah, she left."

2 A Correct.

3 Q The second question was, was Martha there, was she
4 aware of anything. Right?

5 A Correct.

6 Q What did she say?

7 A She said that Martha was there, that she got the
8 same E-mail, that she was in the back office on a
9 call, on an EPIC call, and that there--that was all
10 the information that she had had, that there was--

11 Natalie did not go in and say, "I need to
12 leave. Is there any other way to get a hold of
13 Fiona" or anything like that. She just sent the
14 E-mail, went and got her belongings and left.

15 Q And in your subsequent investigation of this, did
16 you ever talk to Ms. Reeser about what Martha had
17 told her, about any conversation she had with Martha
18 that day?

19 A I'm not sure what conversations you are referring
20 to.

21 Q Well, okay. In your discussions following this, did
22 you ever discuss with Ms. Reeser any conversation
23 she had with Martha that day?

24 A I don't mean that I was confused about my
25 conversations with Natalie. What I meant was

1 confused about Natalie's conversations with Martha.

2 What conversations are you referring to?

3 Q I'm not asking you that. I'm asking you whether or
4 not you had any conversation with Ms. Reeser about
5 any conversations that took place between Natalie
6 and Martha.

7 A No.

8 Q Okay. Then did you--

9 A I asked her if she spoke with her before she left.

10 Q When did you ask her that?

11 A During--after Natalie had called me, after she had
12 been suspended, right immediately after she left the
13 facility. She called me very upset, and I asked her
14 before she left if she had had any conversations
15 with Martha.

16 She told me no. That was the only
17 conversation I was concerned about at that point.

18 Q Did you--so you are saying that any assertion made
19 by Plaintiff that she had a conversation with Martha
20 is false?

21 A I'm not sure. I'm saying that if she is saying that
22 there was a conversation between when the E-mail was
23 sent and the two minutes and ten seconds between
24 when she left, both Martha and Natalie had told me
25 there was no conversation that had occurred during

1 A But she was leaning towards that way, and I didn't
2 want to see her going down that path.

3 Q So now there were two good conversations with Jill.
4 When were these conversations?

5 A I don't recall.

6 Q And one said--it said it was "this week," but it
7 doesn't indicate when. So you don't recall that?

8 A I do not. Like I said, I saw this for the first
9 time last week when Terry had showed it to me during
10 our prep, so I don't recall.

11 Q When insubordination was brought up by John, were
12 these during your calls back and forth or your
13 meetings back and forth where you were updating him
14 on the FLSA issue?

15 A That is correct.

16 (At 2:32 p.m., Plaintiff's
17 Deposition Exhibit 10 marked)

18 Q (By Mr. Flynn) Can you review this to yourself and
19 let me know when you are done?

20 A Certainly. (Witness complied).

21 Q So let's start from the beginning, so with the first
22 E-mail in this chain. Do you recognize this chain
23 of E-mails?

24 A I do.

25 Q The first one is from Natalie to yourself on

1 February 18th. Right?

2 A Correct.

3 Q And in this E-mail she goes on to state that:

4 "I still have heard nothing on the
5 lunches I don't get yet am still not paid
6 for either. I have no choice but to file
7 the paperwork with the state."

8 Do you see that?

9 A I do.

10 Q Did you discuss this E-mail with anyone?

11 A I discussed it--no, actually. All I did was reply
12 back, and I included my boss, as you will see,
13 because part of my response was, "If you would like
14 to meet with my boss, here is her info."

15 Q And so you didn't discuss this with anyone else?

16 A I did not.

17 Q And by "paperwork," what was she referring to here?

18 A I'm not sure.

19 Q You don't know, even though it says, "paperwork with
20 the state"?

21 A No, because, as I said, you will see from my E-mail,
22 I did not ask for E-mail clarification on this, and
23 I did not have a phone conversation with her.

24 What I did was I addressed her concerns as
25 to the length of time that it was taking and gave

1 her the option as she requested to meet with my
2 direct manager if she wanted to.

3 Q Excuse me, but I'm trying to get an answer to the
4 question I asked which is, at the time what did you
5 think she was referring to when she said that she
6 had no choice but to file the paperwork with the
7 state?

8 A I don't know what she was referring to.

9 Q You didn't follow up with that issue?

10 A This was my follow-up.

11 Q You didn't follow up with anyone else regarding the
12 issue that she was planning to file paperwork with
13 the state?

14 A No, I did not, because her--to me, her intent was
15 clear, that she was going to file whatever paperwork
16 she wanted if she wasn't getting resolution.

17 So my response was to explain the
18 situation to give her the resolution, to assure her,
19 as I had in the past, that this was in progress and
20 she was going to be paid.

21 Q Did you ever--do you know whether or not Debra had
22 ever informed John about her threat to go to the
23 state?

24 A I certainly can't be 100% positive of what anybody
25 else does, but Debra wasn't having conversations

1 with John. John was my contact, so there would be
2 no reason for that communication there.

3 Q Isn't this her saying that the company may be liable
4 and "I'm going to go pursue my legal rights"?

5 MR. MIGLIO: Objection as to the form and
6 foundation.

7 THE WITNESS: We were already doing what
8 we needed to do to mitigate our liability and to
9 ensure that the proper payments were made, because
10 as I assured Natalie, we already had recognized that
11 we did owe her money back and that that was going to
12 be paid out to her, as she referenced in here, that
13 she hadn't gotten her payment yet.

14 Q (By Mr. Flynn) Could this be interpreted to mean
15 she is going to the state to report you?

16 A It could be interpreted many different ways. That's
17 not how I interpreted it.

18 Q Can this be interpreted by a reasonable person
19 looking at this to be a threat to go to the state to
20 report the FLSA violations involving the lunches?

21 MR. MIGLIO: Objection as to form and
22 foundation.

23 THE WITNESS: It could be--

24 Q (By Mr. Flynn) Yes or no?

25 A Yes.

1 Q You mentioned that there was a decision made to
2 transfer Ms. Reeser. What was the rationale for
3 that decision?

4 MR. MIGLIO: Oh, boy. I got to object to
5 this, because you asked this two times already. Go
6 ahead. Answer it again.

7 THE WITNESS: There was no decision made
8 to transfer her. As I said, they don't transfer
9 within the lab. It is part of the expectation that
10 they can rotate at any time as needed.

11 Q (By Mr. Flynn) What was the rationale for that?

12 A The rationale for that was that they had lost an
13 individual at one of the other sites. They needed
14 coverage.

15 Now that was also paired with the fact
16 that Natalie had already stated that she was not
17 feeling safe at that site and didn't want to wear
18 her engagement ring.

19 So Fiona had thought that this would be a
20 good opportunity. We need the coverage there.
21 Natalie is not feeling safe here. We will do a
22 rotation.

23 Q What expectation was there for her to be returned to
24 Clinton Township?

25 MR. MIGLIO: Objection as to the form.

1 Whose expectation? Maybe you want to narrow it
2 down.

3 MR. FLYNN: The company's.

4 MR. MIGLIO: That is a pretty large number
5 of people. The company. That is a pretty large
6 number of people. Object to--

7 MR. FLYNN: Counsel, are you done with
8 your speaking objection?

9 MR. MIGLIO: I'll object to the form of
10 the question. The company isn't--

11 Q (By Mr. Flynn) So again, what was the anticipation
12 that Ms. Reeser would be returned to Clinton
13 Township?

14 MR. MIGLIO: Same objection.

15 THE WITNESS: I am not sure.

16 Q (By Mr. Flynn) You didn't ask?

17 A I did not ask, because again, we do not run the
18 operation of the business, and the expectation when
19 all of them hired in was that they would rotate as
20 necessary based on staffing.

21 Q So she may have been moved there for a very lengthy
22 time. You didn't know?

23 A I didn't know, but even if the answer would have
24 been yes--

25 Q So the answer is, you didn't know. Right?

1 A Nobody knew.

2 Q Okay.

3 MR. MIGLIO: I think you are supposed to
4 ask her if she is answering your question before you
5 go straight through now.

6 MR. FLYNN: Counsel, I think it was clear
7 that she had already answered that one, but you
8 know, if you want me to belabor the point and go
9 into another lengthy debate of whether she had or
10 had not when it was clear that she had answered it
11 with a no, I don't know.

12 It just seems like you are trying to delay
13 at that point.

14 (At 2:36 p.m., Plaintiff's
15 Deposition Exhibit 11 marked)

16 Q (By Mr. Flynn) Let me know when you are done
17 reviewing it, if you would.

18 A I will. (Witness complied).

19 Q What is this? What is Exhibit 11?

20 A It's an E-mail.

21 Q It's a chain of E-mails. Correct?

22 A Yes.

23 Q And you recall receiving this E-mail?

24 A Yes, I do.

25 Q This is from Fiona Bork to yourself and John.

1 final decision on that, and they said, "Yes, indeed,
2 you're right. It is compensable time."

3 So that is the final decision that I was
4 referring to.

5 Q So that was before her suspension?

6 A Well before.

7 Q Then I'm skimming along to the next page. This is
8 HFH 605, and--

9 A I'm sorry. I don't have a 605. I have--

10 Q Do you--

11 A Oh, I'm sorry. It's in the other--that's okay. I'm
12 with you now.

13 Q I apologize, yeah. It's kind of confusing how we
14 did it, but--

15 A That's okay.

16 Q I'm looking at the first E-mail here, February 28th,
17 from Fiona, and she writes to you:

18 "Jill, I spoke with both Luain Hajjar
19 and Maria Anger and asked them the following:
20 Have you ever witnessed Natalie Reeser
21 placing a sign on the door at our Clinton
22 Township PSC and closing the site to take
23 a lunch,"

24 and she goes on to discuss what they told her?

25 A Yes.

- 1 Q Who are Luain and Maria?
- 2 A Luain and Maria are sales managers, so they are part
3 of the lab outreach, but they do not manage people.
- 4 Q So they are with Sales?
- 5 A Correct.
- 6 Q Why did she speak with them about this?
- 7 A Because Natalie's response when I had asked for
8 further clarification, saying, "You told me that you
9 previously had authorization. Who authorized you,"
10 she specifically told me Luain, Maria and Martha
11 Wiseheart.
- 12 Q Didn't you reach out to them individually?
- 13 A No, I did not.
- 14 Q Why did you choose not to reach out to them
15 individually?
- 16 A Because Fiona was the one that needed to get the
17 statements at that point.
- 18 Q Why is that?
- 19 A That was just part of our business decision.
- 20 Q Was there any conversation regarding who was going
21 to get the statements?
- 22 A Not that I recall.
- 23 Q So you could have done it technically?
- 24 A Sure. I could have, yes.
- 25 Q But you didn't?

1 inform Payroll and do one big check.

2 Q So you are saying that 606 should be at the bottom
3 of 605. Is that correct?

4 A That is correct. That is correct. I don't know why
5 it came out that way, but it would make much more
6 sense after saying we need to make sure to pay her
7 appropriately for me to then say, "Go ahead and
8 start using the first date that she wrote 'no
9 lunches' on her time card."

10 Q So now I'm looking at HFH 604, and Fiona writes to
11 you:

12 "I'm so sorry if this in any way
13 screwed anything up"?

14 A Yes.

15 Q Do you know what she is referring to?

16 A Because I told her that we needed to comply with the
17 fact that she wasn't being paid properly.

18 Q Well, what was she screwing up?

19 A The back payment.

20 Q Did you follow up with her about what she meant by
21 this?

22 A No. It was very clear to me what she meant by this,
23 because we had been talking all along about the fact
24 that we needed to get her paid.

25 Q So then it goes on to say:

1 you just rely on this statement from Reeser?

2 A No. I individually followed up with John.

3 Q Or, I'm sorry, from Bork?

4 A From Bork. No. I followed up with John as well.

5 Q And when did you follow up with him?

6 A I do not recall if it was--the exact date. It would
7 have been obviously prior to the discussion with
8 Natalie that we were ending her employment, but I
9 don't have the exact date.

10 Q Do you recall what was said during that meeting?

11 A I do. I let him know that we had finalized the
12 investigation, that there was nothing that I could
13 find that could identify any type of--make any
14 circumstances that would lend this to be anything
15 other than job abandonment, and therefore my
16 recommendation was to proceed with termination if he
17 was in support.

18 Q And what did he say?

19 A He said he was in support.

20 Q Did he ask any questions?

21 A He had lots of questions, but I had also been
22 updating--as we had talked, I had been updating him
23 all along as well.

24 Q What questions did he raise?

25 A I don't remember his specific questions. He had

1 questions about the investigation, if I was
2 comfortable with things, did I get the statements
3 back that I had already updated him on, so he had
4 follow-up questions from our previous conversations.

5 Q Were any notes made by--during this meeting with
6 John?

7 A No. It was just a phone call with him, a regular
8 update meeting.

9 Q Now I'm looking on HFH 72, which is the second page
10 of this exhibit. I'm looking at the second to last
11 sentence in this document. It says:

12 "I do believe that potential litigation
13 may come from this. That is why I want to
14 make sure I have all possible documentation
15 prior to proceeding with termination."

16 A Yes.

17 Q Why did you believe that litigation could come from
18 this?

19 A Because it was very unfortunate, the timing between
20 when her actions of walking off the job so closely
21 corresponded with when we were going to be issuing
22 her back pay for the lunches, and it's very clear to
23 me--

24 Clearly I'm not an attorney, but even the
25 prima facie of that is that it looks odd, so that's

1 Resources about this unpaid lunch concern."

2 You are not disputing she did inform you that is
3 what--at the January 20th meeting that--

4 A That is correct.

5 Q Is there any record of the conversations that
6 followed that you have discussed a little bit later
7 regarding the co-workers?

8 A What do you mean, any record?

9 Q Any documentary record that you discussed with what
10 you discussed with these individuals?

11 A Yes. That was the document that you and Terry were
12 talking about, that you said that he didn't--

13 Q Oh. Okay. So let's go into what powers Fiona has
14 to change HFHS policies. What is her authority to
15 amend them or modify them?

16 A If it's based--any manager can create their own
17 departmental procedures. Okay. So for instance,
18 the Attendance Policy.

19 She couldn't say, "This is our new
20 Attendance Policy and/or one occurrence you get a
21 corrective action." No. You have to go with the
22 hospital guidelines.

23 However, what she can say is, "This is how
24 we enact the hospital-wide policy," meaning here is
25 how you call in. Here is how you notify if you are

1 going to be late or if you need to not be in today.

2 Here is the procedure that you follow.

3 That is what the business units or the
4 departments have the ability to create.

5 Q What if the departmental policy infringes upon and
6 takes away a right guaranteed by the HFHS policies?

7 A Then we would need that brought to our attention
8 right away so that we could rectify that.

9 Q So if there is a policy or procedure that is put
10 into place by Fiona that prohibits a person from
11 receiving benefits afforded by the HFHS policy, that
12 would be a violation. Right?

13 A I wouldn't say it would be a violation. It would be
14 an error that we would need to look at and rectify.

15 (At 3:50 p.m., Plaintiff's
16 Deposition Exhibit 20 marked)

17 Q (By Mr. Flynn) This is Exhibit 20. Have you seen
18 this document before?

19 A I have.

20 Q What does it appear to be?

21 A Well, it's a compilation. It's my chronology report
22 as well as my investigation summary that we had just
23 reviewed.

24 The documentation that I had submitted the
25 compensation to get her back pay check issued to her

1 Q Are those--

2 A So that is what this is saying, is that there needs
3 to be the approval for that.

4 Q Is that ever communicated to lab outreach employees?

5 A It's communicated to all employees.

6 Q Where do you get that from?

7 A I would have to find the policy, but, I mean, that
8 has been our practice for the nine and a half years,
9 nine years that I have been there.

10 Q But if a departmental--let's say if Fiona says
11 this--it's mandatory unpaid lunch, and she sends
12 that out to everyone, you might not be privy to
13 that. Correct?

14 A Certainly there are things that we don't know about.

15 Q And so if lunch is mandatory, unpaid lunch is
16 mandatory for her based off of what Fiona says, then
17 if you look at this provision, how could you--how do
18 those two things not conflict?

19 A That's why we were working to, as we keep saying, be
20 able to put something in place to move forward so
21 that the employees could take the unpaid break.

22 The way that it was set up in the interim
23 in between when Ms. Reeser brought it to my
24 attention and until we were able to get something in
25 place with the physicians' office was that even

1 though she couldn't take an uninterrupted 30-minute
2 period, she was going to get paid for that time.

3 Q So that was a problem?

4 A What was a problem?

5 Q That was a problem at the time, that she couldn't
6 take an unpaid lunch?

7 A Right. Well, that is what this is all about.

8 Right? The back pay for the money for the missed
9 lunches, that is what this is all about.

10 Q But that was a problem that was raised. Correct?

11 A That is correct.

12 Q So what if she violated the mandatory unpaid lunch
13 rule that Fiona laid out? Would that be
14 insubordination?

15 A What mandatory--I'm sorry. One more time?

16 Q If she did not take her mandatory unpaid lunches,
17 would that be insubordination?

18 A No, because it's very clear as she and I and Fiona
19 and John had been talking for the month prior, is
20 that she needed to be able to stay there and then
21 get paid for that time until we found a way to close
22 the building.

23 Q Was any effort made in between January 20th and the
24 day that she was suspended to communicate to her
25 that she is to stay there and not request a lunch

1 A But it certainly would not have lapsed the entire
2 pay period, two-week pay period, for her to be able
3 to write that on her card.

4 Q And then from that point forward, Ms. Reeser wasn't
5 paid?

6 A That is correct, because we were still gathering the
7 data.

8 Q This is the problem I'm having difficulty with,
9 because then I look down at 5.6, and it says that:

10 "Employees may leave the premises
11 during unpaid lunch periods."

12 Do you see that?

13 A Right.

14 Q So why wouldn't she think that she could leave?

15 A Because again--and we have already discussed this
16 today--

17 MR. MIGLIO: Several times, I might add.

18 THE WITNESS: That it's unpaid so that
19 they can go wherever they want, but since she was
20 not able to leave the site, that is why we were
21 saying, "You remain there and we will pay you the
22 extra 30 minutes."

23 Q (By Mr. Flynn) She wasn't paid for that until after
24 her termination?

25 A Until we were able to--well, it's unfortunate that

1 she abandoned her position.

2 Q Okay.

3 (At 4:09 p.m., Plaintiff's

4 Deposition Exhibit 21 marked)

5 Q (By Mr. Flynn) This will be Exhibit 21. There you
6 go.

7 A (Witness reviewed document).

8 Q What is this document?

9 A I don't know.

10 Q Is that your signature at the bottom?

11 A It sure is, and I definitely wrote this. I just
12 don't know--I'm honestly not sure if this is
13 something that I had drafted to send--and sent to
14 Terry once we got your--the information in about the
15 lawsuit.

16 Q It says HFH at the bottom, so--

17 A Oh, no, absolutely. I mean, I wrote this. It's my
18 signature. It's my title, and it is obviously a
19 summary. This is--I was just going to say this is
20 something--

21 This is a summary that we would put
22 together for the Appeals Board, and so the only--
23 unless it was something that I drew up in case she
24 chose to appeal, because I was anticipating that she
25 would appeal, using our ADR process.

1 ahead," or just let her go.

2 A Do you mean in general? Because we know that that
3 did not occur here.

4 Q Well, I'm saying that if we do know that occurred--
5 assuming that it occurred--

6 A Then it was just a totally different situation, and
7 a person just went on leave--or went on break and is
8 late coming back?

9 Q Right.

10 A Then, yes, it would be--it would fall under the
11 Attendance Policy.

12 Q Okay. Now it goes on to say that--under 5.3:

13 "If an employee has received
14 corrective action for an issue in the
15 last year, attendance/tardy occurrences
16 will be addressed at the next level of
17 corrective action."

18 Is that what you were referring to earlier when you
19 were discussing progressive discipline?

20 A It is.

21 Q And you indicated that Reeser didn't have any prior
22 disciplines. Did that include occurrences?

23 A I'm not sure if she had occurrences, but not enough
24 occurrences to bring her to the level of Corrective
25 Action.